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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/05/10  
**LAST UPDATED** 02/14/10    **HB** 107/aHBIC/aHfl#1

**SPONSOR** Gonzales

**SHORT TITLE** Telecomm Relocation Costs to Customers    **SB** \_\_\_\_\_

**ANALYST** Lucero/Baca

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
	None		

(Parenthesis ( ) Indicate Expenditure Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non- Rec	Fund Affected
<b>Total</b>	Indeterminate but possibly up to \$1,000.0/relocation	Indeterminate but possibly up to \$1,000.0/relocation	Indeterminate but possibly up to \$1,000.0/relocation	Recurring	General Fund and various other	

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Regulation Commission (PRC)  
 Higher Education Department (HED)  
 Department of Information Technology (DoIT)

### SUMMARY

#### Synopsis of House Floor Amendment #1

House Floor Amendment #1 strikes the House Business and Industry Committee amendment and adds the following language concerning the commission's verification of fees imposed by the telecommunications company:

"for the relocation of facilities and that the telecommunications company engaged in all reasonable efforts to mitigate the relocation costs. The commission shall also determine that the time period for recovery of the fee and the number of customers affected is

reasonable. The commission shall complete its investigation within sixty days of the date a petition is filed or the commission commences an investigation on its own motion, whichever is earlier".

The amendment also adds that “any required customer credits” may be used in a company’s recovery of its actual costs.

#### Synopsis of House Business and Industry Committee Amendment

House Business and Industry and Committee Amendment to House Bill 107 changes reporting requirements for a telecommunications company when notifying the PRC to include project costs, fee calculation, fee recovery period, customers affected, and an affidavit from the company stating only actual and reasonable costs are being recovered.

The amendment clarifies language that when conducting an investigation, the PRC will verify that all notification information has been provided and that the commission has investigated to determine that the actual costs incurred for the relocation of facilities and the telecommunications company made reasonable efforts to mitigate those costs within 60 days.

Finally, the amendment substitutes the word “shall” with “may,” making the PRC’s obligation to change a fee permissive rather than mandatory if the PRC finds a telecommunications company is not recovering its actual costs in charging the fee.

#### Synopsis of Original Bill

House Bill 107 proposes to enact a new section of the Telecommunications Act to entitle telecommunications companies to recover from retail customers without a request for a rate change, the actual costs incurred for the alteration, change, moving or relocation of infrastructure or facilities requested by the State, a political subdivision or other instrumentality of the state.

The telecommunications company shall notify the Public Regulation Commission (PRC) in writing of the imposition of a fee, the fee shall be shown as a separate line item on the customer’s bill. The PRC upon its own motion or through the petition by an interested party may conduct an investigation to verify costs and fees. In the event the PRC finds evidence that a telecommunications company is not recovering its actual incurred costs, the PRC can order adjustments to the fees as necessary.

The cost recovery mechanism shall be a fee. The fee will be shown, if practical, as a separate line item on the company’s bill. The provisions of the bill apply to costs incurred after July 1, 2010 to relocate infrastructure or facilities as well as all costs to remove any infrastructure or facilities.

Effective date of the Act is: July 1, 2010.

#### **FISCAL IMPLICATIONS**

The impact is unknown to retail ratepayers, except that the bill allows a telecommunications company to recover from its customers through a surcharge the costs described in this bill should the telecommunications company choose to do so.

The Act does not specify the methodology for applying the “fee” or if cost recovery is related to customer size, location, or type of telecomm service. The fee could be a percentage, a flat rate, a pro-rata share, etc. Some customers may pay more than others or conversely the whole customer base may share the actual cost recovery.

This Act is a rate rider meaning it would not be a rate change but an additional charge for service that would be shared among customers based on the actual cost of the infrastructure alterations.

The fiscal implications for the state are indeterminate at this time, but could be substantial.

State agencies, like New Mexico Higher Education Department (NMHED) institutions are large retail customers and may be subject to relocation costs. However, reimbursable costs would be shared among all retail customers within the project area.

### **SIGNIFICANT ISSUES**

The HBIC amendment adds additional reporting requirements to the PRC to enable the commission to verify the reasonableness of the fee charged by a telecommunications company.

The PRC notes that under rate of return regulation, a company would be able to include these and other costs in determining rates that are fair, just and reasonable. Currently all costs are covered by price caps; however these are outside the control of the company.

The bill does not provide for advance notification of proposed projects, nor for a showing of the reasonableness of the costs as being strictly necessitated by the government request, or that upgrades or system expansion are not included in the costs. The bill does not establish requirements that companies negotiate with governments concerning alternatives, prior to implementing a fee.

### **ADMINISTRATIVE IMPLICATIONS**

Although the PRC contends that there is no impact to the agency, the provisions contained in this bill could result in additional proceedings before the PRC to determine if the relocation was appropriate and the costs just and reasonable. There may be a need to establish procedures, by rule, for companies to recoup these costs through a line item on the bill.

### **TECHNICAL ISSUES**

There is no delineation of which customers would be billed, of the recovery will be spread over one bill cycle or 12 months, or the methodology for applying the fee.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Costs of relocating or removing telecommunication infrastructure requested by the State, or a political sub-division after July 1, 2009, would not be reimbursable to the utility company.